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ATR-KIM ENG FINANCIAL CORPORATION
and ATR-KIM ENG CAPITAL PARTNERS,
INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re
HUGO N. BONILLA,
Debtor.

ATR-KIM ENG FINANCIAL
CORPORATION and ATR-KIM ENG
CAPITAL PARTNERS, INC.,
Plaintiffs/Respondents,
v.
HUGO NERY BONILLA,
Defendant/Appellant.

Case No. CV-08-1062 WHA

(Bankr. Case No. 07-30309)
(Adv. Proc. No. 07-03079)

PLAINTIFFS/RESPONDENTS'
RESPONSE TO HUGO NERY
BONILLA'S REQUEST FOR
CERTIFICATION OF APPEAL TO THE
NINTH CIRCUIT COURT OF APPEAL

Judge: Hon. William H. Alsup

1 ATR-Kim Eng Financial Corporation and ATR-Kim Eng Capital Partners, Inc.
 2 (collectively, “ATR”), Plaintiffs and Respondents in the above-captioned bankruptcy appeal,
 3 hereby respond to the Request of Hugo Nery Bonilla (“Bonilla”) for Certification of Appeal
 4 to the Ninth Circuit Court of Appeal (the “Request”). Bonilla’s Request does not mention
 5 that Bonilla asked ATR to stipulate to certification pursuant to 28 U.S.C. section
 6 158(d)(2)(B)(ii) and ATR declined. ATR elected not to stipulate because it does not believe
 7 this is a case that warrants departure from the usual rule of intermediate review in the
 8 District Court. ATR will, of course, oppose Bonilla’s appeal and will proceed in whichever
 9 court this Court decides is the appropriate next forum.

10 Bonilla devotes the bulk of his Request to arguing the “merits” of his appeal. Bonilla’s
 11 characterization of the events leading up to this appeal and Judge Carlson’s rulings are, at best,
 12 skewed, and at worst, inaccurate. More to the point, they are irrelevant to the issues presented by a
 13 request for certification. ATR is confident that Judge Carlson’s ruling was correct, and ATR will
 14 fully brief the merits of the appeal at the appropriate time and before the appropriate court, whether
 15 it be this Court or the Ninth Circuit.

16 Should the Court desire, ATR can submit further arguments or briefing on any issues raised
 17 by Bonilla’s Request.

18
 19 Dated: February 29, 2008.

Respectfully,

20 HOWARD RICE NEMEROVSKI CANADY
 21 FALK & RABKIN
 A Professional Corporation

22
 23 By: /s/ William J. Lafferty
 WILLIAM J. LAFFERTY

24 Attorneys for Plaintiffs
 25 ATR-KIM ENG FINANCIAL CORPORATION and
 26 ATR-KIM ENG CAPITAL PARTNERS, INC.
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